

AGENCY MEMBERS PRESENT

Caldwell, Gene, M.D., Chair
Atchley, Bryan, Vice Chair
Coile, Kristin, designee for the Commissioner of Commerce and Insurance
Collier, David, M.D., designee for the TennCare Director
Koella, Carl, III,
Lammert, Gregory
Troy, Peggy
Weaver, Faye, designee for the Comptroller of the Treasury

AGENCY MEMBERS ABSENT

Handorf, Charles, M.D.

AGENCY STAFF PRESENT

Hill, Melanie, Executive Director
Bobbitt, Melissa, Administrative Services Assistant II
Brogden, Reid, General Counsel
Christoffersen, Jim, Deputy General Counsel
Craighead, Alecia, Statistical Analyst III
Farber, Mark, Assistant Executive Director
Finchum, Rhonda, Office Manager
Grimm, Jeff, Health Planner III
Wells, Phil, Health Planner III

GUESTS PRESENT

Baker, E. Graham, Esq., Weeks, Anderson, & Baker
Barker, Terry
Bartlett, Candy, Aseracare Hospice
Benton, Tony, Assistant Vice President, Strategic Planning, Mountain States Health Alliance
Best, Robin, RPC
Bowman, Bernie, CEO, Asbury Place at Johnson City
Breazeale, Ed, M.D., The Breazeale Clinic
Brent, Michael D., Esq., Boulton, Cummings, Conners & Berry
Brown, Dere, NHC
Chance, Heather, Community Hospice
Chase, Christopher, M.D., International Centers of Excellence for Aesthetic Surgery
Clark, Rob, St. Jude's Children's Research Hospital
Corritore, Danell, Department of Health
Cravens, Tom, Esq., Kramer, Rayson, Leake, Rodgers & Morgan
Culp, Joe, Department of Health
DeLozier, Fran, The Breazeale Clinic
Delph, Benjamin, Bass, Berry & Sims
DeVoe, Michael, M.D., Professor of Pediatrics, Mountain States Health Alliance
Duckett, Gregory, Sr. Vice President/Corporate Counsel, Baptist Memorial Health Care
Duncan, Bruce, NHC
Dutton, Gerald, Director of Development, Tennessee Health Management, Inc.
Edwards, Monica, Esq., AmeriCare
Elrod, Dan H., Esq., Miller & Martin
Franks, Ronald D., MD, Dean of Medicine, East Tennessee State University
Gallagher, Tom, M.D., The Breazeale Clinic
Greenhill, Greg, Volunteer Hospice
Hamley, Pam, The Breazeale Clinic
Hampton, Michael E., CEO, AmeriCare
Herring, Robert, M.D., FACP., FACG, The Endoscopy Center of Smyrna
Hill, Janice M., Administrator, Baptist Memorial Restorative Care Hospital

HEALTH SERVICES AND DEVELOPMENT AGENCY

NOVEMBER 16, 2005 MEETING

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Howard, Brad, The Breazeale Clinic
Jeffers, Raymond, M.D., AmeriCare
Kawinsky, David, M.D., Chair Department of Pediatrics, East Tennessee State University
Leech, Robert, Unity Hospice
Luke, Ron, RPC
Maples, Arthur, Director Strategic Analysis, Baptist Memorial Health Care
McRae, Norman, President/CEO, Caris Healthcare
Merville, LaDonna, Hospital Alliance of Tennessee
Moody, Mark S., Sr. Director of Engineering, Mountain States Health Alliance
Parrish, Jeff
Pate, Jim, CEO, Unicoi County Memorial Hospital
Porter, William, Director of Development, Community Hospice of Tennessee, LLC
Puri, Chris, Esq., Boulton, Cummings, Connors & Berry
Raines, Debbie
Richardson, Mike, Covenant Health
Ross, Don, AHC
Roberson, Saunders, CEO, Community Hospice
Robertson, J.T., AmeriCare
Rogers, Sandy, The Breazeale Clinic
Russell, Richard, THCA
Sayler, Paul, Caris Healthcare
Schulter, Drew, Director/Owner, Mid-South Facial Imaging Center
Smithgall, Lisa, Vice President, Women's and Children's Services, Johnson City Medical Center
Speer, Dan, Mayor of Pulaski
Stephenson, Kate, Esq., Trauger, Ney & Tuke
Taylor, Faleecia, Administrator, The Endoscopy Center of Smyrna
Taylor, Jerry W., Esq., Farris, Mathews, Branam, Bobango, Hellen & Dunlap, PLC
Traglia, Chris, Volunteer Hospice
Trauger, Byron, Esq., Trauger, Ney & Tuke
Vermillion, Kerry, Mountain States Health Alliance
Whitaker, Tonya, RN, Community Hospice
Wiechmann, Philip J., DO, AseraCare Hospice
Winters, Gene, Consultant, AmeriCare

Chairman Caldwell called the meeting to order at 8:30 a.m. in the Corporate Conference Room of the Gaylord Entertainment Center, Nashville, Tennessee.

DIRECTOR'S ANNOUNCEMENTS

Melanie Hill, Executive Director, made general announcements. The new Health Services and Development Agency Rules became effective November 14, 2005. The new Rules have been posted on the Agency's website.

CERTIFICATE OF NEED APPLICATIONS

Mark Farber summarized the following CON applications:

Ms. Troy recused.

AmeriCare Long Term Care Hospital - (Memphis, Shelby County) - Project No. CN0506-048

The establishment of a thirty (30) bed long term acute care hospital located in approximately 22,000 gross square feet in an existing facility. The facility will be licensed by the Tennessee Department of Health. Project Cost \$1,000,000.00.

Michael D. Brent, Esq., representing the applicant, addressed the Agency. Speaking on behalf of the project were: Gene Winters, Consultant; Raymond Jeffers, M.D.; and Michael E. Hampton, CEO. Monica Edwards, Esq., AmeriCare was present.

Opposing the project was: E. Graham Baker, Esq., representing Select Specialty Hospital; Gregory Duckett, Sr. Vice President/Corporate Counsel, Baptist Memorial Health Care Systems; and Janice M. Hill, Administrator, Baptist Memorial Restorative Care Hospital. Present were: Dan H. Elrod, Esq., representing, Baptist Memorial Restorative Care Hospital; and Arthur Maples, Director Strategic Analysis, Baptist Memorial Health Care.

Mr. Winters and Mr. Hampton rebutted.

Mr. Koella moved for denial of the project based on: Need – Based upon a previous existing hospital that is already closed and the declining utilization, as shown on the Department of Health's report with the 2004 occupancy being below the 2002 and 2003 reports, there is a lack of need. Mr. Atchley seconded the motion. The motion CARRIED [5-0-2]. **DENIED**

AYE: Coile, Lammert, Koella, Atchley, Caldwell

NAY: Weaver, Collier

Mr. Lammert recused.

Community Hospice of Tennessee, LLC - (Pulaski, Giles County) - Project No. CN0508-063

The establishment of a home care organization to provide hospice services in the service area of Giles, Lawrence, Lincoln, Marshall and Maury counties. The office will be located at 304 E. Jefferson Street, Pulaski (Giles County), Tennessee. Project Cost \$110,328.00.

E. Graham Baker, Esq., representing the applicant, addressed the Agency. Speaking on behalf of the project were: Saunders Roberson, CEO; Dan Speer, Mayor of Pulaski; and Tonya Whitaker, RN. William Porter, Director of Development was present.

Opposing the project were: Dan H. Elrod, Esq., representing Caris Healthcare; Norman McRae, President/CEO, Caris Healthcare; Candy Bartlett, and Philip J. Wiechmann, DO, Aseracare were present.

Mr. Baker rebutted.

Ms. Troy moved for denial of the project based on: 1) Need – The need was not demonstrated; and 2) The project does not contribute to the orderly development of adequate and effective health care. Mr. Koella seconded the motion. The motion CARRIED [6-1-0]. **DENIED**

AYE: Coile, Troy, Koella, Atchley, Weaver, Collier

NAY: Caldwell

Ms. Troy recused.

MidSouth Facial Imaging Center - (Memphis, Shelby County) - Project No. CN0508-064

The establishment of an outpatient diagnostic center (ODC) specializing in facial/neck imaging, and diagnosis for dental and medical applications utilizing a new cone-beam facial computerized tomography (CT). CT scans will be conducted without contrast material for the head and neck areas. Project Cost \$877,227.00.

Drew Schulter, Director/Owner, representing the applicant, addressed the Agency.

Dan H. Elrod, Esq., representing, Baptist Memorial Health System opposed.

Mr. Schulter rebutted.

Mr. Lammert moved for approval of the project based on: 1) Need – There is a need for the service in the Memphis area; 2) Economic Feasibility – The project is economically feasible; and 3) The project does contribute to the orderly development of adequate and effective health care. **CONDITION: Limited to facial cone beam CT scans for maxillofacial and cervical spine anatomy in connection with dental implants and surgical reconstruction of the facial anatomy.** Ms. Troy seconded the motion. The motion CARRIED [6-1-0]. **APPROVED**

AYE: Coile, Lammert, Koella, Atchley, Weaver, Collier,
NAY: Caldwell

Unicoi County Memorial Hospital, Inc. - (Erwin, Unicoi County) - Project No. CN0508-066

The expansion of magnetic resonance imaging (MRI) services from two (2) days per week to full time fixed services. The project will include the lease of a 1.5 tesla gold seal MRI and a modular building in which to house the equipment. Project Cost \$1,425,490.25.

Jim Pate, CEO, representing the applicant, addressed the Agency.

Ms. Troy moved for approval of the project based on: 1) Need – The need has been demonstrated; 2) Economic Feasibility – There is financial feasibility, the numbers demonstrate the financial need to go to five (5) days per week; and 3) The project does contribute to the orderly development of adequate and effective health care. Ms. Weaver seconded the motion. The motion CARRIED [8-0-0]. **APPROVED**

AYE: Coile, Troy, Lammert, Koella, Atchley, Weaver, Collier, Caldwell
NAY: None

Gibson General Hospital - (Trenton, Gibson County) - Project No. CN0508-067

The initiation of mobile magnetic resonance imaging (MRI) services one (1) day per week using an existing mobile MRI owned by its affiliate, Jackson-Madison County General Hospital. Project Cost \$358,000.00.

DEFERRED TO THE DECEMBER MEETING

Humboldt General Hospital - (Humboldt, Gibson County) - Project No. CN0508-068

The initiation of mobile magnetic resonance imaging (MRI) services one (1) day per week using an existing mobile MRI owned by its affiliate, Jackson-Madison County General Hospital. Project Cost \$358,000.00.

DEFERRED TO THE DECEMBER MEETING

Bolivar General Hospital - (Bolivar, Hardeman County) - Project No. CN0508-069

The initiation of mobile magnetic resonance imaging (MRI) services one (1) day per week using an existing mobile MRI owned by its affiliate, Jackson-Madison County General Hospital. Project Cost \$358,000.00.

DEFERRED TO THE DECEMBER MEETING

Milan General Hospital - (Milan, Gibson County) - Project No. CN0508-070

The initiation of mobile magnetic resonance imaging (MRI) services one (1) day per week using an existing mobile MRI owned by its affiliate, Jackson-Madison County General Hospital. Project Cost \$358,000.00.

DEFERRED TO THE DECEMBER MEETING

Camden General Hospital, Inc. - (Camden, Benton County) - Project No. CN0508-071

The initiation of mobile magnetic resonance imaging (MRI) services one (1) day per week using an existing mobile MRI owned by its affiliate, Jackson-Madison County General Hospital. Project Cost \$358,000.00.

DEFERRED TO THE DECEMBER MEETING

Life Care Center of Sparta - (Sparta, White County) - Project No. CN0508-072

The addition of twenty (20) skilled nursing facility beds dedicated to cardiopulmonary skilled nursing services. The beds will be dually Medicare and Medicaid certified and will increase the total licensed bed complement from one hundred (100) to one hundred twenty (120). The project will involve the reconfiguration of existing space where assisted living services are currently provided. Project Cost \$193,000.00.

WITHDRAWN

Behavioral Healthcare Center at Clarksville-(Clarksville, Montgomery County) - Project No. CN0508-074

The establishment of a thirty-eight (38) bed mental health hospital, and the initiation of psychiatric services. The intended uses of the beds are: 12 general adult psychiatric, and 26 geriatric psychiatric. The facility will be located in the building currently occupied by Clarksville Manor Nursing Home which is the subject of a separate application for relocation and replacement. The facility will be licensed as a mental health hospital by the Tennessee Department of Mental Health and Development Disabilities. Project Cost \$4,368,245.00.

DEFERRED TO THE DECEMBER MEETING

Clarksville Manor Nursing Center - (Clarksville, Montgomery County) - Project No. CN0508-075

The relocation of eighty-three (83) skilled nursing facility beds from 2134 Old Ashland Road to a replacement facility at an unaddressed site on Dunlap Lane, Clarksville (Montgomery County), Tennessee. The project also includes the addition of *thirty (30) skilled nursing facility beds for a total of one hundred thirteen (113) dually certified Medicare and Medicaid beds. Project Cost \$7,503,746.00. *The additional thirty (30) beds are subject to the 2005-2006 Nursing Home Bed Pool.

Jerry W. Taylor, Esq., representing the applicant, addressed the Agency and Gerald Dutton, Director of Development, Tennessee Health Management, Inc., spoke on behalf of the project. Jeff Parrish was present in support.

Mr. Koella moved for denial of the project based on: 1) Need – The need is not demonstrated with the declining occupancy trend; 2) The project does not contribute to the orderly development of adequate and effective health care with the discrepancies filed by the Department of Health. Ms. Troy seconded the motion. The motion FAILED [4-4-0].

AYE: Troy, Lammert, Koella, Caldwell

NAY: Coile, Atchley, Weaver, Collier

Ms. Coile moved for approval of the project for the relocation of a replacement facility. Ms. Coile withdrew the motion in light of the applicant's request to **withdraw** the application to file a new Certificate of Need for the relocation replacement of the facility.

International Centers of Excellence for Aesthetic Surgery, LLC - (Chattanooga, Hamilton County) - Project No. CN0508-076

The establishment of a single specialty ambulatory surgical treatment center (ASTC) with two (2) operating rooms and one (1) procedure room for the purpose of cosmetic surgery, wound, benign and malignant lesion excisions, tissue repair, implant and reconstruction procedures performed on an outpatient basis in facilities shared with other physicians not in the practice. Project Cost \$2,532,540.00.

Christopher Chase, M.D., representing the applicant, addressed the Agency.

Mr. Lammert moved for approval of the project based on: 1) Need – There is a need for the single specialty ambulatory surgical treatment center (ASTC) limited to plastic and cosmetic surgeries only; 2) Economic Feasibility – The project is economically feasible; and 3) The project does contribute to the orderly development of adequate and effective health care for the Hamilton County area. Mr. Atchley seconded the motion. The motion CARRIED [8-0-0]. **APPROVED**

AYE: Coile, Troy, Lammert, Koella, Atchley, Weaver, Collier, Caldwell

NAY: None

Johnson City Medical Center - (Johnson City, Washington County) - Project No. CN0508-077

The construction of a thirty-seven (37) bed dedicated children's facility attached to the hospital's existing thirty-two (32) bed Neonatal Intensive Care Unit (NICU). The project includes construction of two (2) dedicated surgical suites, a pediatric emergency room and the replacement of thirty (30) pediatric and pediatric intensive care unit acute care beds and the addition of seven (7) NICU beds increasing the total bed complement from 578 to 585. Project Cost \$31,276,500.00.

Dan H. Elrod, Esq., representing the applicant, addressed the Agency. Speaking on behalf of the project were: Lisa Smithgall, Vice President, Women's and Children's Services; David Kawinsky, M.D., Chair Department of Pediatrics; Byron Trauger, Esq., representing Wellmont Health Systems; Ronald D. Franks, MD, Dean of Medicine, East Tennessee State University; Tony Benton, Assistant Vice President, Strategic Planning, Mountain States Health Alliance. Present in support were: Kerry Vermillion, Mountain States Health Alliance; Mark S. Moody, Sr. Director of Engineering, Mountain States Health Alliance; and Michael DeVoe, M.D., Professor of Pediatrics, Mountain States Health Alliance.

Mr. Koella moved for approval of the project based on: 1) Need – The need is demonstrated through the strong community support, (State Senators and Representatives, Congressmen, Mayors, St. Jude's Children's Research Hospital); and the growth of pediatric admissions have been greater than 20 percent; 2) Economic Feasibility – The project is economically feasible through donations and corporate cash reserves of the parent; and 3) The project does contribute to the orderly development of adequate and effective health care as it is properly licensed and is a TennCare provider. Ms. Troy seconded the motion. The motion CARRIED [8-0-0]. **APPROVED**

AYE: Coile, Troy, Lammert, Koella, Atchley, Weaver, Collier, Caldwell
NAY: None

Asbury Place at Johnson City - (Johnson City, Washington County) - Project No. CN0508-078

The construction of a partial replacement nursing home to relocate eighty-four (84) of the existing one hundred sixty-eight (168) nursing home beds currently located at 400 North Boone Street, Johnson City (Washington County). The partial replacement facility will be located at 140 Technology Lane, Johnson City (Washington County), Tennessee. The remaining eighty-four (84) beds will continue to operate at the current site in a new partial replacement facility that was approved under CN0402-015A. The beds will be dually certified for Medicare and Medicaid services. This project includes a development agreement between the owner/applicant Johnson City Medical Investors, LLC and Christian Care Center of Johnson City, Inc. The partial replacement facility will be separately licensed by the Tennessee Department of Health. These beds are not subject to the 2005-2006 Nursing Home Bed Pool. Project Cost \$6,224,978.00.

Jerry W. Taylor, Esq., representing the applicant, addressed the Agency and Bernie Bowman, CEO spoke on behalf of the project.

Ms. Troy moved for approval of the project based on: 1) Need – The need is demonstrated for the project; 2) Economic Feasibility – The project is economically feasible; and 3) The project does contribute to the orderly development of adequate and effective health care. Ms. Coile seconded the motion. The motion CARRIED [8-0-0]. **APPROVED**

AYE: Coile, Troy, Lammert, Koella, Atchley, Weaver, Collier, Caldwell
NAY: None

Mr. Koella recused.

Breazeale Clinic Surgery Center - (Knoxville, Knox County) - Project No. CN0508-079

The establishment of an ambulatory surgical treatment center (ASTC) limited to plastic and cosmetic surgical procedures, and limited to the physicians of Earl Edward Breazeale, P.C. The ASTC will have three (3) operating rooms. Project Cost \$3,748,415.00.

Jerry W. Taylor, Esq., representing the applicant, addressed the Agency.

Ms. Troy moved for approval of the project based on: 1) Need – There is a need; 2) Economic Feasibility – The project is economically feasible; and 3) The project does contribute to the orderly development of adequate and effective health care. Mr. Lammert seconded the motion. The motion CARRIED [7-0-0].
APPROVED

AYE: Coile, Troy, Lammert, Atchley, Weaver, Collier, Caldwell
NAY: None

GENERAL COUNSEL'S REPORT

Reid Brogden summarized the following modification requests:

The Endoscopy Center of Smyrna, - (Smyrna, Rutherford County) - Project No. CN0208-064AE

Request for modification of Certificate of Need for extension of the expiration date from January 1, 2006 to January 1, 2008. The project was approved at the November 12, 2002 HSDA meeting for the establishment of a single ambulatory surgical treatment center (ASTC) and initiation of outpatient endoscopy surgery with five (5) procedure rooms in approximately 4,862 square feet with an expiration date of January 1, 2005. The expiration date was extended to January 1, 2006 at the June 23, 2004 HSDA meeting.

Robert Herring, M.D., FACP., FACG, addressed the Agency and Faleecia Taylor, Administrator was present.

Ms. Coile moved for approval of the request to extend the expiration date from January 1, 2006 to January 1, 2008 and based on unforeseen events the project cost will be allowed to increase up to \$1.7 million. Ms. Troy seconded the motion. The motion CARRIED [5-2-1]. **APPROVED**

AYE: Coile, Troy, Lammert, Collier, Caldwell
NAY: Atchley, Weaver
ABSTAINED: Koella

OTHER BUSINESS

Audit Charges

Dr. Caldwell presented a letter regarding the fee charged by Finance and Administration from the Comptroller of the Treasury.

Mr. Koella moved not to authorize payment of the auditor's journal voucher until the request, under the open meetings law, disclosing the number of hours per person (auditor), and the number of days spent in preparing the audit is reported to the Agency. The audit reported that there were no material findings or grievous findings, or problems found with the Agency. Mr. Koella, further recommended, if this is not addressed to the Agency's satisfaction that the matter be investigated. Mr. Atchley seconded. The motion CARRIED [7-0-1].
APPROVED

AYE: Coile, Troy, Lammert, Koella, Atchley, Collier, Caldwell
NAY: None
ABSTAINED: Weaver

CURRENT REPORTS

Statistical Reports

The reports were accepted into the record.

Finance, Ways and Means Committee Reports

The reports were accepted into the record.

Minutes

The minutes of the October 26, 2005, meeting were accepted by unanimous voice vote.

ADJOURNMENT

There being no further business, the meeting adjourned.

Melanie M. Hill, Executive Director

MMH/mab